

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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FRANKIE CANCEL,

Plaintiff,

- against -

MEMORANDUM & ORDER
07-CV-4670 (RRM)(LB)

THE CITY OF NEW YORK; DETECTIVE
TIMOTHY O'BRIEN; NYPD IAB
INVESTIGATOR; and JOHN GIBSON,

Defendants.

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MAUSKOPF, United States District Judge.

Plaintiff *pro se* Frankie Cancel brings this 43 U.S.C. § 1983 civil rights action alleging constitutional and New York State law violations by defendants City of New York, Timothy O'Brien, and John Gibson (collectively "Defendants"). Defendants moved for dismissal of Cancel's Second Amended Complaint or, in the alternative, for summary judgment. The matter was referred to the Honorable Lois Bloom for report and recommendation ("R&R"), pursuant to 28 U.S.C. § 636(b). This Court is now in receipt of Magistrate Judge Bloom's R&R, dated (docket no. 46), as well as Cancel's Objections thereto (docket nos. 48 & 49), and Defendants' Opposition thereto (docket nos. 50-52).

STANDARD OF REVIEW

Rule 72 of the Federal Rules of Civil Procedure permits magistrate judges to conduct proceedings on dispositive pretrial matters without the consent of the parties. Fed. R. Civ. P. 72(b). If any party timely serves and files written objections to a magistrate judge's report and recommendation on a dispositive motion, the district court must "make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3). The district court

“may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.* The district court is not required to review *de novo*, and may instead review for clear error, those portions of a report and recommendation to which no objections are addressed, see *Thomas v. Arn*, 474 U.S. 140, 150 (1985); *Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007), or where objections are merely perfunctory responses, argued in an attempt to engage the district court in a rehashing of the same arguments set forth in the original petition, see *Edwards v. Fischer*, 414 F. Supp. 2d 342, 346-47 (S.D.N.Y. 2006).

Out of an abundance of caution, and given plaintiff’s *pro se* status, the Court has reviewed the R&R *de novo*, and has construed plaintiff’s objections to raise the strongest arguments possible. After doing so, the Court overrules plaintiff’s objections for the reasons set forth in Defendants’ Memorandum in Opposition (doc. no. 52), and adopts the R&R in its entirety.

As such, Defendants’ Motion is GRANTED. Plaintiff’s federal claims are DISMISSED, and the Court declines to exercise supplemental jurisdiction over Plaintiff’s state law claims. The Clerk of Court is directed to dismiss this action, enter judgment accordingly, and close the file.

SO ORDERED.

Dated: Brooklyn, New York
September 22, 2012

Roslynn R. Mauskopf

ROSLYNN R. MAUSKOPF
United States District Judge